In re: CARL DEAN CLARK, JR., AND MARIE JOYCE COLEMAN.
HPA Docket No. 98-0013.
Ruling Denying Petition to Reopen Hearing as to Marie Joyce Coleman filed August 9, 2000.

Petition to reopen hearing – Right to reopen hearing – Right to jury trial.

Colleen A. Carroll, for Complainant.
Respondent, Pro se.
Initial decision issued by Dorothea A. Baker, Administrative Law Judge.
Ruling issued by William G. Jenson, Judicial Officer.

The Acting Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter Complainant], instituted this disciplinary administrative proceeding under the Horse Protection Act of 1970, as amended (15 U.S.C. §§ 1821-1831) [hereinafter the Horse Protection Act], and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130-.151) [hereinafter the Rules of Practice] by filing a Complaint on August 17, 1998.

The Complaint alleges that Carl Dean Clark, Jr., and Marie Joyce Coleman violated the Horse Protection Act. Pursuant to section 1.138 of the Rules of Practice (7 C.F.R. § 1.138), Complainant and Carl Dean Clark, Jr., agreed to the entry of a Consent Decision. Administrative Law Judge Dorothea A. Baker [hereinafter the ALJ] entered the Consent Decision on December 1, 1999. *In re Carl Dean Clark, Jr.* (Consent Decision as to Carl Dean Clark, Jr.), 58 Agric. Dec. ___ (Dec. 1, 1999).

The Complaint alleges Marie Joyce Coleman [hereinafter Respondent]: (1) on or about May 1, 1997, entered, for the purpose of showing or exhibiting, a horse known as "Lincoln Lady," as entry number 144 in class number 28, at the Spotted Saddle Horse Breeders and Exhibitors Association Horse Show in Shelbyville, Tennessee, while the horse was sore, in violation of section 5(2)(B) of the Horse Protection Act (15 U.S.C. § 1824(2)(B)) (Compl. ¶ II(C)); and (2) on May 1, 1997, allowed the showing or exhibiting of Lincoln Lady, as entry number 144 in class number 28, at the Spotted Saddle Horse Breeders and Exhibitors Association Horse Show in Shelbyville, Tennessee, while the horse was sore, in violation of section 5(2)(D) of the Horse Protection Act (15 U.S.C. § 1824(2)(D)) (Compl. ¶ II(D)). On November 18, 1998, Complainant filed Notice of Amendment of Complaint which alleges that on May 1, 1997, Respondent allowed Lincoln Lady to be shown or exhibited as entry number 144 in class number 28, at the Spotted Saddle Horse Breeders and Exhibitors Association Horse Show in Shelbyville, Tennessee, while the horse was wearing pad bands in a manner prohibited by section 11.2(b)(15) of the Horse Protection Regulations (9 C.F.R. § 11.2(b)(15)) (Notice of Amendment of Compl. ¶ II(F)).

On October 6, 1998, Respondent filed an Answer denying the material

allegations of the Complaint, and on December 10, 1998, Respondent filed an Answer denying the material allegations of the Notice of Amendment of Complaint.

On August 6, 1999, the ALJ scheduled a hearing to begin on October 20, 1999, at 9:00 a.m, local time, in Shelbyville, Tennessee (Change in Oral Hearing Date). On October 20, 1999, the ALJ conducted a hearing in Shelbyville, Tennessee. Colleen A. Carroll, Office of the General Counsel, United States Department of Agriculture, represented Complainant. Eric L. Davis, Franklin, Tennessee, represented Carl Dean Clark, Jr. Respondent failed to appear at the October 20, 1999, hearing.

Section 1.141(e)(1) of the Rules of Practice provides that a respondent's failure to appear at the hearing constitutes a waiver of hearing and an admission of all the material allegations of fact contained in the complaint, as follows:

> **§ 1.141 Procedure for hearing.**
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> . . . .
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> (e) *Failure to appear.* (1) A respondent who, after being duly notified, fails to appear at the hearing without good cause, shall be deemed to have waived the right to an oral hearing in the proceeding and to have admitted any facts which may be presented at the hearing. Such failure by the respondent shall also constitute an admission of all the material allegations of fact contained in the complaint. Complainant shall have an election whether to follow the procedure set forth in § 1.139 or whether to present evidence, in whole or in part, in the form of affidavits or by oral testimony before the Judge. Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the Judge's decision and to appeal and request oral argument before the Judicial Officer with respect thereto in the manner provided in § 1.145.

7 C.F.R. § 1.141(e)(1).

Complainant elected to follow the procedure in section 1.139 of the Rules of Practice (7 C.F.R. § 1.139), and on May 2, 2000, Complainant filed a Motion for Adoption of Proposed Decision and Order and a Proposed Decision and Order as to Marie Joyce Coleman Upon Admission of Facts by Reason of Default. On May 19, 2000, Respondent filed objections to Complainant's Motion for Adoption of Proposed Decision and Order and Complainant's Proposed Decision and Order as to Marie Joyce Coleman Upon Admission of Facts by Reason of Default.

On May 19, 2000, pursuant to sections 1.139 and 1.141(e) of the Rules of Practice (7 C.F.R. §§ 1.139, .141(e)), the ALJ issued a Decision and Order as to Marie Joyce Coleman [hereinafter Initial Decision and Order]: (1) concluding that on or about May 1, 1998, Respondent allowed the showing or exhibiting of Lincoln

Lady, as entry number 144 in class number 28, at the Spotted Saddle Horse Breeders and Exhibitors Association Horse Show in Shelbyville, Tennessee, while the horse was sore, in violation of section 5(2)(D) of the Horse Protection Act (15 U.S.C. § 1824(2)(D)); (2) assessing Respondent a $2,000 civil penalty; and (3) disqualifying Respondent for 1 year from showing, exhibiting, or entering any horse, directly or indirectly through any agent, employee, or other device, and from judging, managing, or otherwise participating in any horse show, horse exhibition, horse sale, or horse auction (Initial Decision and Order at 3-4).

On June 5, 2000, Respondent appealed to the Judicial Officer and filed a petition to reopen the hearing. Complainant failed to file a timely response to Respondent's appeal petition and failed to file a timely response to Respondent's petition to reopen the hearing. On August 8, 2000, the Hearing Clerk transmitted the record of this proceeding to the Judicial Officer for a decision[1] and a ruling on Respondent's petition to reopen the hearing.

Section 1.146(a)(2) of the Rules of Practice provides that a petition to reopen a hearing must state the nature and purpose of the evidence to be adduced and set forth a good reason why the evidence was not adduced at the hearing, as follows:

> **§ 1.146 Petitions for reopening hearing; for rehearing or reargument of proceeding; or for reconsideration of the decision of the Judicial Officer.**
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> (a) *Petition requisite*. . . .
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> (2) *Petition to reopen hearing.* A petition to reopen a hearing to take further evidence may be filed at any time prior to the issuance of the decision of the Judicial Officer. Every such petition shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not merely cumulative, and shall set forth a good reason why such evidence was not adduced at the hearing.

7 C.F.R. § 1.146(a)(2).

Respondent states that she failed to adduce evidence at the hearing because she became confused about the hearing date and failed to attend the hearing. On August 6, 1999, the ALJ scheduled the hearing to take place on October 20, 1999, and ordered the notice of the date of the hearing to be served on the parties (Change in Oral Hearing Date). The ALJ commenced the hearing on October 20, 1999, as scheduled. Respondent does not contend that she did not receive the ALJ's August 6, 1999, notice of the change in the hearing date. Under these

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[1]I am filing a Decision and Order as to Marie Joyce Coleman simultaneous with the filing of this Ruling Denying Petition to Reopen Hearing as to Marie Joyce Coleman. *In re Carl Dean Clark, Jr.* (Decision as to Marie Joyce Coleman), 59 Agric. Dec. ___ (Aug. 9, 2000).

circumstances, I find no basis for Respondent's confusion regarding the date of the hearing.

Respondent also contends that she has the right to have the hearing reopened based on her status as a citizen and a taxpayer. Respondent cites no basis for her contention that, as a citizen and a taxpayer, she has the right to have the hearing reopened. Section 1.146(a)(2) of the Rules of Practice (7 C.F.R. § 1.146(a)(2)) does not provide parties with the right to have a hearing reopened. Instead, section 1.146(a)(2) of the Rules of Practice (7 C.F.R. § 1.146(a)(2)) only provides parties with the right to request that a hearing be reopened. Moreover, section 1.146(a)(2) of the Rules of Practice (7 C.F.R. § 1.146(a)(2)) provides that a party seeking to reopen a hearing bears the burden of showing why the evidence to be adduced was not adduced at the hearing. Respondent has not set forth a good reason for her failure to adduce evidence at the October 20, 1999, hearing.

Therefore, Respondent's petition to reopen the hearing is denied.

Respondent also requests that she be given a jury trial. Even if I had granted Respondent's petition to reopen the hearing, I would not order that Respondent be given a jury trial. Respondent has no constitutional right to a jury trial. This proceeding is not a criminal prosecution and the constitutional provisions in Article III, § 2 of the United States Constitution and the Sixth Amendment to the United States Constitution, which afford the right to a jury trial in criminal proceedings, are not applicable to this proceeding.[2] The Seventh Amendment to the United States

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[2] *See United States v. Zucker*, 161 U.S. 475, 481 (1895) (stating the Sixth Amendment relates to prosecution of an accused person which is technically criminal in nature); *United States v. Loaisiga*, 104 F.3d 484, 486 (1st Cir.) (stating deportation proceedings are civil matters exempt from Sixth Amendment protections; they are primarily conducted by administrative bodies and not by courts), *cert. denied*, 520 U.S. 1271 (1997); *Castaneda-Suarez v. INS*, 993 F.2d 142, 144 (7th Cir. 1993) (stating deportation hearings are deemed civil proceedings and thus aliens have no constitutional right to counsel under the Sixth Amendment); *Father & Sons Lumber and Building Supplies, Inc. v. NLRB*, 931 F.2d 1093, 1097 (6th Cir. 1991) (holding the Sixth Amendment does not apply to a civil matter, such as a labor relations proceeding conducted by the National Labor Relations Board); *United States v. Schellong*, 717 F.2d 329, 336 (7th Cir. 1983) (holding denaturalization proceedings are not criminal proceedings; therefore, there is no right to a jury trial under Article III of the United States Constitution or the Sixth Amendment), *cert. denied*, 465 U.S. 1007 (1984); *Schultz v. Wellman*, 717 F.2d 301, 307 (6th Cir. 1983) (holding the Sixth Amendment does not apply to administrative discharge proceedings conducted by the National Guard because such proceedings are not criminal in nature); *Savina Home Industries, Inc. v. Secretary of Labor*, 594 F.2d 1358, 1366 (10th Cir. 1979) (rejecting the characterization of Occupational Safety and Health Administration administrative proceedings, in which civil penalties can be assessed, as criminal proceedings and the argument that the Sixth Amendment is applicable to such proceedings); *Camp v. United States*, 413 F.2d 419, 422 (5th Cir.) (holding there is no Sixth Amendment right to counsel in non-criminal administrative proceedings before the Selective Service Board), *cert. denied*, 396 U.S. 968 (1969); *Haven v. United States*, 403

Constitution provides the right to a jury trial in suits at common law, as follows:

> In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of common law.

U.S. Const. amend. VII.

Courts have long construed the phrase "Suits at common law" as referring to cases analogous to those tried prior to the adoption of the Seventh Amendment in

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F.2d 384, 385 (9th Cir. 1968) (holding the Sixth Amendment right to counsel does not apply in administrative proceedings in the selective service process), *cert. dismissed*, 393 U.S. 1114 (1969); *Olshausen v. Commissioner*, 273 F.2d 23, 27 (9th Cir. 1960) (stating the Sixth Amendment applies only to criminal proceedings and Congress may properly provide civil proceedings for the collection of civil penalties which are civil or remedial sanctions rather than punitive and the Sixth Amendment has no application to such proceedings); *Board of Trade of City of Chicago v. Wallace*, 67 F.2d 402, 407 (7th Cir. 1933) (rejecting the contention that proceedings under section 6(a) of the Grain Futures Act of September 21, 1922, are "essentially criminal" and holding that, since the proceedings are not criminal in nature, there is no right to a jury trial under Article III, § 2 of the United States Constitution), *cert. denied*, 291 U.S. 680 (1934); *Gee Wah Lee v. United States*, 25 F.2d 107 (5th Cir.) (per curiam) (concluding the appeal of a deportation order by a United States commissioner is not a trial on a criminal charge covered by Article III, § 2 of the United States Constitution), *cert. denied*, 277 U.S. 608 (1928); *Olearchick v. American Steel Foundries*, 73 F. Supp. 273, 279 (W.D. Pa. 1947) (stating the guarantee under the Sixth Amendment applies only to those proceedings technically criminal in nature); *Farmers' Livestock Comm'n Co. v. United States*, 54 F.2d 375, 378 (E.D. Ill. 1931) (stating the Sixth Amendment is only applicable to proceedings technically criminal in nature and concluding the Sixth Amendment is not applicable to administrative proceedings under the Packers and Stockyards Act of 1921); *In re David Tracy Bradshaw*, 59 Agric. Dec. ___, slip op. at 31-33 (June 14, 2000) (concluding the Sixth Amendment is not applicable to administrative proceedings instituted under the Horse Protection Act); *In re Judie Hansen*, 57 Agric. Dec. 1072, 1132 (1998) (concluding the Sixth Amendment is not applicable to administrative proceedings instituted under the Animal Welfare Act), *appeal dismissed*, No. 99-2640 (per curiam), 2000 WL 1010575 (Table) (8th Cir. July 24, 2000); *In re Conrad Payne*, 57 Agric. Dec. 921, 931 (1998) (concluding the respondent's rights under the Sixth Amendment are not implicated in an administrative proceeding instituted under section 2 of the Act of February 2, 1903); *In re Saulsbury Enterprises, Inc.*, 57 Agric. Dec. 82, 100 (1997) (concluding Article III, § 2 of the United States Constitution and the Sixth Amendment, which afford the right to a jury trial in criminal proceedings, are not applicable to administrative proceedings conducted in accordance with the Administrative Procedure Act and instituted under section 8c(14)(B) of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. § 608c(14)(B)) (Order Denying Pet. for Recons.)).

courts of law in which jury trial was customary.[3] Congress is free to create new

[3]*See Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33, 42 n.4 (1989) (stating "[t]he Seventh Amendment protects a litigant's right to a jury trial only if a cause of action is legal in nature and it involves a matter of 'private right'"); *Tull v. United States*, 481 U.S. 412, 417 (1987) (stating the Court has construed the language of the Seventh Amendment to require a jury trial on the merits in those actions that are analogous to "Suits at common law"); *Atlas Roofing Co. v. Occupational Safety and Health Review Comm'n*, 430 U.S. 442, 449 (1977) (stating "[t]he phrase 'Suits at common law' has been construed to refer to cases tried prior to the adoption of the Seventh Amendment in courts of law in which jury trial was customary as distinguished from courts of equity or admiralty in which jury trial was not"); *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1, 48 (1937) (stating the Seventh Amendment preserves the right to trial by jury which existed under the common law when the amendment was adopted; thus the Seventh Amendment is not applicable where the proceeding is not in the nature of a suit at common law); *Parsons v. Bedford*, 3 Pet. 433, 445-46 (1830) (construing the phrase "Suits at common law" in the Seventh Amendment as referring to cases tried in courts of law in which jury trial was customary as distinguished from courts of equity or admiralty in which jury trial was not customary); *Cavallari v. Comptroller of the Currency*, 57 F.3d 137, 145 (2d Cir. 1995) (stating the Seventh Amendment right to a jury trial attaches in cases involving legal rather than equitable claims); *Simpson v. Office of Thrift Supervision*, 29 F.3d 1418, 1423 (9th Cir. 1994) (stating the Supreme Court has consistently interpreted the phrase "Suits at common law" in the Seventh Amendment to refer to suits in which legal rights are to be ascertained and determined, in contradistinction to those suits in which equitable rights alone are recognized and equitable remedies are administered), *cert. denied*, 513 U.S. 1148 (1995); *Rosenthal & Co. v. Bagley*, 581 F.2d 1258, 1261 (7th Cir. 1978) (stating the right to a jury turns on the nature of the issue to be resolved and on the forum in which it is to be resolved); *Welch v. TVA*, 108 F.2d 95, 99 (6th Cir. 1939) (stating the usual method of determining the value of private property taken for public use has been to accord the land owner the right to have damages assessed by a jury, but this is a matter of legislative discretion because condemnation proceedings by the United States for the use and benefit of the Tennessee Valley Authority are not suits at common law in which the right to trial by jury is guaranteed by the Seventh Amendment), *cert. denied*, 309 U.S. 688 (1940); *NLRB v. Tidewater Exp. Lines, Inc.*, 90 F.2d 301, 303 (4th Cir. 1937) (per curiam) (stating the Seventh Amendment preserves the right to trial by jury which existed under the common law when the amendment was adopted; thus the Seventh Amendment is not applicable where the proceeding is not in the nature of a suit at common law); *Olearchick v. American Steel Foundries*, 73 F. Supp. 273, 279 (W.D. Pa. 1947) (stating the guarantee of the right to trial by jury under the Seventh Amendment applies only to suits as were maintainable under common law at the time the amendment was adopted); *Farmers' Livestock Comm'n Co. v. United States*, 54 F.2d 375, 378 (E.D. Ill. 1931) (stating the guarantee of the right to trial by jury under the Seventh Amendment applies only to suits of such character as were maintainable at common law at the time the amendment was adopted); *In re Hudson*, 170 B.R. 868, 873-74 (E.D.N.C. 1994) (stating the right to a jury trial under the Seventh Amendment extends only to matters of private right and finding a creditor who files a claim with the bankruptcy court loses the Seventh Amendment right to a jury trial); *Kentucky Comm'n on Human Rights v. Fraser*, 625 S.W.2d 852, 854 (Ky. 1981) (stating the United States Supreme Court has interpreted the right to trial by jury to mean the right which existed in suits under common law in

statutory public rights, as it did with the enactment of the Horse Protection Act, and assign their adjudication to an administrative agency before which a litigant has no right to a jury trial, without violating the Seventh Amendment's requirement that a jury trial is to be preserved in suits at common law.[4] Thus, I conclude that the

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1791, when the Seventh Amendment was adopted; the Seventh Amendment does not create a jury trial right, it simply preserves the right that already existed under the common law).

[4]*See Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33, 42 n.4 (1989) (stating if a claim that is legal in nature asserts a public right, then the Seventh Amendment does not entitle the parties to a jury trial if Congress assigns its adjudication to an administrative agency or specialized court of equity); *Tull v. United States*, 481 U.S. 412, 418 n.4 (1987) (noting the Seventh Amendment is not applicable to administrative proceedings); *Atlas Roofing Co. v. Occupational Safety and Health Review Comm'n*, 430 U.S. 442, 449-461 (1977) (stating when Congress creates statutory public rights, it may assign their adjudication to an administrative agency with which a jury trial would be incompatible without violating the Seventh Amendment's injunction that jury trial is to be preserved at common law); *Pernell v. Southhall Realty*, 416 U.S. 363, 383 (1974) (assuming the Seventh Amendment would not be a bar to a congressional effort to entrust landlord-tenant disputes, including those over the right to possession, to an administrative agency; and stating *Block v. Hirsh*, 256 U.S. 135 (1921), stands for the principle that the Seventh Amendment is generally inapplicable in administrative proceedings where jury trials would be incompatible with the whole concept of administrative adjudication); *Curtis v. Loether*, 415 U.S. 189, 194 (1974) (stating the Seventh Amendment is generally inapplicable in administrative proceedings, where jury trials would be incompatible with the whole concept of administrative adjudication); *Marine Shale Processors, Inc. v. EPA*, 81 F.3d 1371, 1378 (5th Cir. 1996) (stating that application to the Environmental Protection Agency for a boiler and industrial furnace permit required under the Resource Conservation and Recovery Act triggered a public rights dispute; therefore, the applicant has no right to a jury trial under the Seventh Amendment), *cert. denied*, 519 U.S. 1055 (1997); *Cavallari v. Comptroller of the Currency*, 57 F.3d 137, 145 (2d Cir. 1995) (stating when the government sues in its sovereign capacity to enforce public rights, Congress may assign the fact-finding and initial adjudication to an administrative forum); *Simpson v. Office of Thrift Supervision*, 29 F.3d 1418, 1423 (9th Cir. 1994) (stating in cases in which "public rights" are being litigated, e.g., cases in which the government sues in its sovereign capacity to enforce public rights created by statutes within the power of Congress to enact, the Seventh Amendment does not prohibit Congress from assigning that fact-finding function and initial adjudication to an administrative forum with which a jury would be incompatible), *cert. denied*, 513 U.S. 1148 (1995); *Sasser v. Administrator, EPA*, 990 F.2d 127, 130 (4th Cir. 1993) (holding a person charged in an administrative complaint for discharging pollutants has no Seventh Amendment right to a jury trial and stating "[g]enerally speaking, the Seventh Amendment does not apply to disputes over statutory public rights, 'those which arise between the Government and persons subject to its authority in connection with the performance of constitutional functions of the executive and legislative departments'"); *Joy Technologies, Inc. v. Manbeck*, 959 F.2d 226, 228 (Fed. Cir.) (stating public rights may be constitutionally adjudicated by legislative courts and administrative agencies without implicating the Seventh Amendment right to a jury trial), *cert. denied*, 506 U.S. 829 (1992); *Myron v. Hauser*, 673 F.2d 994, 1004 (8th Cir. 1982) (stating generally the Seventh Amendment

is not applicable to administrative or statutory proceedings and concluding the Seventh Amendment is not applicable to reparation proceedings before the Commodity Futures Trading Commission); *Skidmore v. Consolidated Rail Corp*., 619 F.2d 157, 159 (2d Cir. 1979) (stating the Supreme Court has held that the Seventh Amendment right to a jury trial does not extend to situations where Congress has seen fit to set up an administrative procedure for adjudication of disputes arising out of statutorily created rights), *cert. denied*, 449 U.S. 854 (1980); *Rosenthal & Co. v. Bagley*, 581 F.2d 1258, 1261 (7th Cir. 1978) (stating that at least when only public rights are involved, Congress may provide for administrative fact-finding with which a jury trial would be incompatible and even where the statutory public rights are enforceable in favor of a private party, they can be committed to an administrative agency for determination); *Floyd S. Pike Electrical Contractor, Inc. v. Occupational Safety and Health Review Comm'n*, 557 F.2d 1045 (4th Cir. 1977) (per curiam) (stating the Seventh Amendment is not a bar to the imposition of civil penalties by an administrative tribunal as authorized by the Occupational Safety and Health Act of 1970); *Penn-Dixie Steel Corp. v. Occupational Safety and Health Review Comm'n*, 553 F.2d 1078, 1080 (7th Cir. 1977) (stating the Supreme Court held in *Atlas Roofing Co*., that the Seventh Amendment does not bar Congress from assigning to an administrative agency the task of adjudicating Occupational Safety and Health Act violations); *Dorey Electric Co. v. Occupational Safety and Health Review Comm'n*, 553 F.2d 357, 358 (4th Cir. 1977) (per curiam) (stating the Supreme Court held in *Atlas Roofing Co*., that the Seventh Amendment poses no bar to the disposition of a charge of the violation of the Occupational Safety and Health Act and the assessment of a civil penalty by an administrative tribunal); *Mohawk Excavating, Inc. v. Occupational Safety and Health Review Comm'n*, 549 F.2d 859, 865 (2d Cir. 1977) (stating the Seventh Amendment is not a bar to the imposition of civil penalties through the administrative process without a jury trial in the enforcement of the Occupational Safety and Health Act); *Clarkson Construction Co. v. Occupational Safety and Health Review Comm'n*, 531 F.2d 451, 455-56 (10th Cir. 1976) (stating it is within the power of Congress to choose an administrative process for the enforcement of the safe and healthful working conditions objective of the Occupational Safety and Health Act of 1970 and the administrative proceeding which resulted in the imposition of a civil sanction for the violation of the Act is not an action at common law within the meaning of the Seventh Amendment; hence no jury trial right arises); *National Velour Corp. v. Durfee*, 637 A.2d 375, 379 (R.I. 1994) (stating if an action involves the adjudication of public rights, no jury is required pursuant to the Seventh Amendment); *Kentucky Comm'n on Human Rights v. Fraser*, 625 S.W.2d 852, 854 (Ky. 1981) (stating where a right is created by statute and committed to an administrative forum, jury trial is not required by the Seventh Amendment); *In re Conrad Payne*, 57 Agric. Dec. 921, 931-34 (1998) (concluding the Seventh Amendment does not entitle the respondent to a jury trial in an administrative proceeding instituted under section 2 of the Act of February 2, 1903); *In re Saulsbury Enterprises*, 56 Agric. Dec. 82, 100 (1997) (holding there is no constitutional right to a jury trial in administrative proceedings conducted in accordance with the Administrative Procedure Act and instituted under section 8c(14)(B) of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. § 608c(14)(B)) (Order Denying Pet. for Recons.)); *In re James W. Hickey*, 47 Agric. Dec. 840, 851 (1988) (rejecting the respondent's contention that he was improperly denied a jury trial in an administrative proceeding under the Animal Welfare Act, and stating it is well settled that a jury trial is not required in an administrative disciplinary proceeding), *aff'd*, 878 F.2d 358, 1989 WL 71462 (9th Cir. 1989) (not to be cited as precedent under

Seventh Amendment to the United States Constitution does not entitle Respondent to a jury trial in this administrative proceeding.

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9th Circuit Rule 36-3), *printed in* 48 Agric. Dec. 107 (1989).